

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 19, 2007

In Reply Refer To:
Hardy Storage Company, LLC
Docket Nos. CP05-150-005
CP05-150-006

Hardy Storage Company, LLC
5151 San Felipe, Suite 2500
Houston, TX 77056

Attention: James R. Downs, Director of Regulatory Affairs

Reference: Tariff Compliance Filing

Dear Mr. Downs:

1. On April 30, 2007, Hardy Storage Company, LLC (Hardy Storage) filed a revised tariff sheet¹ to comply with the Commission's March 29, 2007 letter order (March 29 letter order)² and a request for clarification or, in the alternative, rehearing of that letter order. In this order, the Commission accepts the revised tariff sheet for filing, effective April 1, 2007, as requested. Additionally, since the Commission accepts Hardy Storage's compliance filing, the request for clarification or, in the alternative, rehearing is dismissed as moot.

2. On November 1, 2005, the Commission issued a certificate to Hardy Storage, authorizing the development and operation of underground gas storage facilities in Hampshire and Hardy Counties, West Virginia (November 1 order).³ Among other

¹ First Revised Sheet No. 145 to FERC Gas Tariff, Original Volume No. 1.

² Hardy Storage Company, LLC, Docket No. CP05-150-003 (March 29, 2007) (unpublished letter order).

³ *Columbia Gas Transmission Corporation and Hardy Storage Company, LLC*, 113 FERC ¶ 61,118 (2005).

things, the November 1 order directed Hardy Storage to clarify its tariff to provide that the proposed penalties for excess monthly injections and/or withdrawals may only be assessed in instances where operational integrity is threatened. The Commission explained that if Hardy Storage declares a Critical Day on the second day of the month, and the conditions which caused that declaration have been abated and are not experienced during the remainder of the month, it should not be able to assess penalties on shippers that exceeded the injection/withdrawal parameters of sections 7(c) and 7(e) of its Rate Schedule Hardy Storage Service (HSS).⁴

3. On March 19, 2007, in compliance with the Commission's November 1 order, Hardy Storage filed revisions to sections 7(c) and 7(e) of its Rate Schedule HSS to provide that excess injection and withdrawal penalties may be imposed "for each day during the month on which a Critical Day was declared." The March 29 letter order conditionally accepted the revised tariff sheets. However, the March 29 letter order noted that section 19.4 of the General Terms & Conditions (GT&C) of Hardy Storage's tariff stated, in part, that:

For penalties ascribed for conduct that occurs over a monthly as opposed to daily period of time, these monthly penalties will be imposed only if Seller has declared a Critical Day on any day occurring in that monthly period.

The March 29 letter order stated that "[t]he language in section 19.4 regarding monthly penalties does not comply with the Commission's November 1 Order because it suggests that there are monthly penalties that may be incurred, and such penalties are undefined in the tariff and may be imposed even if a customer's actions are not the cause of or directly related to the need for Hardy Storage to declare a Critical Day."⁵ The March 29 letter order directed Hardy Storage to delete the language regarding monthly penalties from section 19.4.

4. On April 30, 2007, Hardy Storage filed a request for clarification or, in the alternative, rehearing of the March 29 letter order. Hardy Storage requests that the Commission clarify that its directive to delete the references to monthly penalties was inadvertent, and that the Commission simply meant to resolve the inconsistency that exists between section 19.4 and the revised language set forth in sections 7(c) and 7(e) of Rate Schedule HSS. Hardy Storage states that, to the extent the Commission accepts Hardy Storage's contemporaneous compliance filing in these proceedings, the request will be rendered moot.

⁴ 113 FERC ¶ 61,118, at P 69, 70.

⁵ March 29 letter order at 2.

5. On April 30, 2007, Hardy Storage also filed a revised tariff sheet to conform the language in section 19.4 to the revised language in sections 7(c) and 7(e) of Rate Schedule HSS. Specifically, section 19.4 was revised to state that monthly injection and withdrawal penalties “will be imposed only for each day during the month on which a Critical Day was declared.”

6. Public notice of the April 30, 2007 compliance filing was issued on May 4, 2007. Interventions and protests were due as provided in section 154.210 of the Commission’s regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2006)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No interventions or adverse comments were filed.

7. The Commission finds that Hardy Storage’s proposed revised tariff sheet clarifies section 19.4 of its GT&C by limiting the imposition of penalties to conduct that threatens operational integrity, and therefore, is consistent with the requirement of the November 1 order. Therefore, the Commission accepts Hardy Storage’s proposed revised tariff sheet. Hardy Storage’s request for clarification or, in the alternative, rehearing of the March 29 letter is dismissed as moot.

By direction of the Commission.

Kimberly D. Bose
Secretary